

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: OFFICE OF CONSUMER ADVOCATE, Complainant, vs. McLEODUSA TELECOMMUNICATIONS, INC., Respondent.	DOCKET NO. FCU-04-12
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**ORDER DOCKETING FOR FORMAL PROCEEDING
AND REQUESTING RESPONSE**

(Issued March 17, 2004)

On February 13, 2004, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to consider civil penalties pursuant to Iowa Code § 476.103 (2003), asking that the Board review the proposed resolution in C-03-257, involving McLeodUSA Telecommunications, Inc. (McLeodUSA), and consider the possibility of assessing a civil penalty pursuant to Iowa Code § 476.103(4)"a." Based upon the record assembled in the informal complaint proceedings (which are a part of the record in this proceeding pursuant to 199 IAC 6.7), it appears the events to date can be summarized as follows:

On January 5, 2004, Mr. Thomas Hoffman filed a complaint with the Board alleging that McLeodUSA switched his long distance service from Qwest to McLeodUSA without his authorization. Board staff identified the matter as C-04-2 and, pursuant to Board rules, on January 7, 2004, forwarded the complaint to McLeodUSA for response.

McLeodUSA responded to the complaint on January 8, 2004, stating that its records showed that Mr. Hoffman's service to his toll-free number was suspended on December 18, 2003, for nonpayment. McLeodUSA also stated that a payment was received from Mr. Hoffman on December 19, 2003, and subsequently, McLeodUSA restored service to both Mr. Hoffman's toll-free number and his long distance line. McLeodUSA stated that both lines were shown as "active" on his account and that it was not McLeodUSA's intention to switch Mr. Hoffman's long distance service without his authorization. McLeodUSA also stated that Mr. Hoffman's account had been fully credited for all charges associated with his complaint.

On January 30, 2004, Board staff issued a proposed resolution describing these events and proposing that the credit offered by McLeodUSA represented a fair resolution of the situation. Consumer Advocate has challenged the staff's proposed resolution.

In its February 13, 2004, petition, Consumer Advocate asserts that the proposed resolution is not supported by the facts of the underlying complaint and that sufficient reasons exist to merit an investigation into the matter. In addition, Consumer Advocate asserts that other slamming complaints received by Board staff have named McLeodUSA as the alleged violating company. Consumer Advocate

requests that the Board docket this complaint for a formal proceeding and impose civil penalties on McLeodUSA. McLeodUSA has not responded to Consumer Advocate's petition.

The Board has reviewed the record to date as well as the additional slamming complaints made against McLeodUSA and finds that there is sufficient information to warrant further investigation in this matter. The Board will delay establishing a procedural schedule until April 19, 2004, and allow McLeodUSA an opportunity to respond to the allegations raised in Consumer Advocate's petition.

IT IS THEREFORE ORDERED:

1. The "Petition for Proceeding to Consider Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on February 13, 2004, is granted and docketed for formal proceeding.
2. McLeodUSA Telecommunications, Inc., is requested to file a response to the Consumer Advocate's January 26, 2004, petition on or before April 19, 2004.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Sharon Mayer
Executive Secretary, Assistant to

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 17th day of March, 2004.